# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 10/666,496 | 09/19/2003 | Makoto Akune | 7217/70907 | 8021 |

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| EXAMINER |
|---|
| DAILEY, THOMAS J |

| ART UNIT | PAPER NUMBER |
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| 2452 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eOfficeAction@ldlkm.com

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *29 June 2011*.

2a)☒ This action is **FINAL**.          2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

5)☒ Claim(s) *28-34* is/are pending in the application.

    5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *28-34* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some *  c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

## DETAILED ACTION

1. Claims 28-34 are pending.

### *Response to Arguments*

2. Applicant's arguments with respect to the prior art rejections of the claims have been considered but are moot in view of the new ground(s) of rejection. Specifically, the examiner has provided the Tokue reference which discloses the amended and argued subject matter.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kidder (US Pat. 6,363,413) in view of Tokue (US Pub. No. 2002/0002413) in view of Watanabe (US Pat. 6,430,354) and in further view of Boykin et al (US Pub. No. 2001/0042048, cited on PTO-892, dated 6/25/2007), hereafter "Boykin."

5. As to claim 28, Kidder discloses a content server for distributing upgraded content data, comprising:

a network interface for receiving an upgrade request from a user for content

data previously downloaded by the user from the content server as base data of

a first format (column 7, lines 36-43, the second user request for the video

indicates the bit streams already in possession of the user (A1 and V1)

whereupon the server sends the upgrading data (audio stream A2 and video

stream V2) that is combined with the previously transmitted data in column 7,

lines 50-57 in order to create a higher quality video clip);

a storage unit having a user-related information section for checking user-

related information of the base data previously downloaded by the user (column

7, lines 36-43, information regarding the video data previously sent to the user is

processed by the server);

an upgrading-data generating unit for generating upgrading data of the

content data to upgrade the previously downloaded base data of the first format

to the target format (column 7, lines 36-43, server generates video data V2 and

audio data A2), the upgrade-data being generated on a user-to-user basis by

reviewing a usage-history of the user  stored as user related information

indicating a format of the base data previously downloaded by the user, to

determine the first format (column 7, lines 36-44, user requests video clip for a

second time and informs the server of the first format (i.e. bit rate apportionment)

that the user received as a result of the first request (i.e. a usage history)); and

the network interface transmitting the upgrading data to the user in response

to the upgrade request (column 7, lines 36-43),

the base data representing the content at a first quality (column 7, lines 36-43, V1 and A1 represent the base data at a first quality), and the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality (column 6, lines 50-57, V2 and A2 represent the upgrade data, and the second quality is represented by V1+V2 and A1+A2; i.e. making V2 and A2 the difference between the first and second qualities).

But, Kidder does not disclose the storage unit of the content server storing the usage history of the user is stored at the content server when the base data is first downloaded, but rather Kidder discloses that the client informs the content server what was previously downloaded when the upgrading occurs.

However, Tokue discloses a storage unit of a content server storing the download/usage history of users as user related information ([0043], lines 1-10, subscribers are "users').

Therefore it would have been obvious to combine the teachings of Kidder and Tokue in order to provide in Kidder a means to store data at the content provider rather then require the client to send that data back to the provider, thereby reducing overhead (i.e. by not needing to include that information in the second request).

But, Kidder and Tokue do not explicitly disclose calculating the difference between the data in the first format and the data in the target format by subtracting the data in the first form at from the data in the target format. Rather,

Kidder's request is a generic request to improve the quality of the video, with no specific target format in mind; hence there is no explicit calculation of a difference.

However, Watanabe discloses specifying a target format of a combination of data in a first format and upgrade data with the upgrade data being difference data being formed by subtracting data in the first format from the data in the target format (column 4, line 61-column 5, line 6; and claim 6, "wherein said coded data generation means outputs differential data which is calculated by subtracting coded data of a higher resolution level from coded data of a lower resolution level in sequence," that is, the higher resolution data is the target format; the lower resolution data is data in a first format; the differential data is the upgrade/difference data).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kidder and Tokue with Watanabe in order to have specific format goals when upgrading media data and a means to achieve such (i.e. the subtraction disclosed in Watanabe).

Further, Kidder, Tokue, and Wannabe do not explicitly discloses the target format is from at least one predetermined format, nor the base data of a first format is selected by a user from a plurality of predetermined base data formats, where the base data format may be later upgraded. That is, neither Kidder nor Wannabe explicitly discloses the user's upgrade or initial request explicitly indicates a target format that is predetermined by the system.

However, Boykin discloses downloading base data of a first format selected

by a user from a plurality of predetermined base data formats, and ([0013], lines

1-8, a user may select between different formats representing different qualities;

further in [0030] it is disclosed the system is not strictly limited to just high and

low qualities, but a greater plurality of formats) and further the user sending an

upgrade request to upgrade an existing audio file to a predetermined target

format, the upgrade request a higher quality than the first format, and is from at

least one predetermined format determined to have an upgradable relationship

with the first format selected ([0019]-[0020], user has low fidelity format (base

data, first format) and sends a request to update it to a higher fidelity format

(predetermined target format); the two formats are determined to have an

upgradable relationship based upon the key).

Therefore it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine the teachings of Kidder, Tokue and Wannabe

with Boykin in order to allow user control as to which format they upgrade the

multimedia data to, so as to increase the flexibility of the system and user

satisfaction.


6. As to claim 31, Kidder discloses a personal terminal for the playback of content

data, comprising:

a network interface for sending an upgrade request to a content server for

content data previously downloaded by a user as base data of a first format and

receiving upgrading data of the content data in response (column 7, lines 36-43,

the second user request for the video indicates the bit streams already in

possession of the user (A1 and V1) whereupon the server sends the upgrading

data (audio stream A2 and video stream V2) that is combined with the previously

transmitted data in column 7, lines 50-57 in order to create a higher quality video

clip), the upgrade-data being generated on a user-to-user basis by reviewing a

usage-history of the user to determine the first format (column 7, lines 36-44,

user requests video clip for a second time and informs the server of the first

format (i.e. bit rate apportionment) that the user received as a result of the first

request (i.e. a usage history));

a content-data combining unit for combining the upgrading data with the

previously downloaded base data, whereby the base data is upgraded to the

target format (column 7, lines 50-57, the first data stream is read from the cache

and combined with the recently received second data stream with the end result

being a video clip of higher quality); and

an audio-signal processing unit for playback of the upgraded base data

having the target format (column 7, lines 50-57, upgraded video clip with audio

data can be played back for the user),

the base data representing the content at a first quality (column 7, lines 36-

43, V1 and A1 represent the base data at a first quality), and the upgrading data

being difference data that is combined with the base data to generate data

representing the content at a second quality that is higher than the first quality

(column 6, lines 50-57, V2 and A2 represent the upgrade data, and the second quality is represented by V1+V2 and A1+A2; i.e. making V2 and A2 the difference between the first and second qualities).

But, Kidder does not disclose the usage history of the user is stored at a storage unit in the content server when the base data is first downloaded, but rather Kidder discloses that the client informs the content server what was previously downloaded when the upgrading occurs.

However, Tokue discloses a content server storing the download history of users as user related information ([0043], lines 1-10, subscribers are "users').

Therefore it would have been obvious to combine the teachings of Kidder and Tokue in order to provide in Kidder a means to store data at the content provider rather then require the client to send that data back to the provider, thereby reducing overhead (i.e. by not needing to include that information in the second request).

But, Kidder and Tokue do not explicitly disclose calculating the difference between the data in the first format and the data in the target format by subtracting the data in the first form at from the data in the target format. Rather, Kidder's request is a generic request to improve the quality of the video, with no specific target format in mind; hence there is no explicit calculation of a difference.

However, Watanabe discloses specifying a target format of a combination of data in a first format and upgrade data with the upgrade data being difference

data being formed by subtracting data in the first format from the data in the

target format (column 4, line 61-column 5, line 6; and claim 6, "wherein said

coded data generation means outputs differential data which is calculated by

subtracting coded data of a higher resolution level from coded data of a lower

resolution level in sequence," that is, the higher resolution data is the target

format; the lower resolution data is data in a first format; the differential data is

the upgrade/difference data).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine the teachings of Kidder and Tokue with

Watanabe in order to have specific format goals when upgrading media data and

a means to achieve such (i.e. the subtraction disclosed in Watanabe).

Further, Kidder, Tokue, and Wannabe do not explicitly discloses the target

format is from at least one predetermined format, nor the base data of a first

format is selected by a user from a plurality of predetermined base data formats,

where the base data format may be later upgraded.  That is, neither Kidder nor

Wannabe explicitly discloses the user's upgrade or initial request explicitly

indicates a target format that is predetermined by the system.

However, Boykin discloses downloading base data of a first format selected

by a user from a plurality of predetermined base data formats, and ([0013], lines

1-8, a user may select between different formats representing different qualities;

further in [0030] it is disclosed the system is not strictly limited to just high and

low qualities, but a greater plurality of formats) and further the user sending an

upgrade request to upgrade an existing audio file to a predetermined target

format, the upgrade request a higher quality than the first format, and is from at

least one predetermined format determined to have an upgradable relationship

with the first format selected ([0019]-[0020], user has low fidelity format (base

data, first format) and sends a request to update it to a higher fidelity format

(predetermined target format); the two formats are determined to have an

upgradable relationship based upon the key).

　　　　Therefore it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine the teachings of Kidder, Tokue, and Wannabe

with Boykin in order to allow user control as to which format they upgrade the

multimedia data to, so as to increase the flexibility of the system and user

satisfaction.

7.　As to claim 34, it is rejected by the same rationale set forth in claim 28's

　　　rejection.

8.　As to claims 29 and 32, Kidder discloses the base data includes a header

　　　comprising content-grade identification information indicating the first format

　　　(column 7, lines 36-39).

9. As to claims 30 and 33, Kidder discloses the higher quality is at least one of a higher sampling frequency and a higher bit rate of the content data (column 7, lines 50-64).

### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's
    supervisor, Thu Nguyen can be reached on 571-272-6967. The fax phone
    number for the organization where this application or proceeding is assigned is
    571-273-8300.

14. Information regarding the status of an application may be obtained from the
    Patent Application Information Retrieval (PAIR) system. Status information for
    published applications may be obtained from either Private PAIR or Public PAIR.
    Status information for unpublished applications is available through Private PAIR
    only. For more information about the PAIR system, see http://pair-
    direct.uspto.gov. Should you have questions on access to the Private PAIR
    system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-
    free). If you would like assistance from a USPTO Customer Service
    Representative or access to the automated information system, call 800-786-
    9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas J Dailey/
Examiner, Art Unit 2452